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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,209	07/11/2003	Gennaro A. Cuomo	5577-270	4211

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EXAMINER

MOAZZAMI, NASSER G

ART UNIT

PAPER NUMBER

2187

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/618,209	<b>Applicant(s)</b> CUOMO ET AL.	
	<b>Examiner</b> Nasser G. Moazzami	<b>Art Unit</b> 2187	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,8,13,16,17 and 20 is/are rejected.
- 7) ☒ Claim(s) 5-7,9-12,18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/07/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Information Disclosure Statement*

1. Information Disclosure Statement submitted by applicant on 07/07/2004 is being considered by examiner. See attached PTO-1449.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 8, 13, 16-17 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaffer (US Patent No. 6,826,599).

As per claim 1, Shaffer discloses a method of controlling a cache of distributed data, comprising: dynamically determining **[maintaining a dynamic list for each CF values (column 7, lines 55-57)]** whether and/or where to cache the distributed data based on characteristics of the data, characteristics of the source of the data and characteristics of the cache so as to provide an indication of whether to cache the data; and selectively caching the data based on the indication **[to determine whether to**

**cache the object (column 4, line 10); using various combination of a plurality of metrics including access or download time for the object, accesses for the object, the size of the object, bandwidth required to download the object and a number of object requests (column 4, lines 14-48); other metrics not described are also within the scope of the invention (column 7, lines 45-46)].**

As per claim 2, Shaffer discloses that the characteristics of the data comprise how often the data is accessed **[number of accesses for the object]**.

As per claim 3, Shaffer discloses that the characteristics of the source of the data comprise how long it takes to recompute the data and/or how long it takes to replicate the data **[size of the object]**.

As per claim 4, Shaffer discloses that the characteristics of the cache comprise how long it takes to retrieve a cached item **[download time]**.

As per claim 8, Shaffer discloses that the cache comprises a disk cache and wherein caching the data comprises offloading cached memory contents to the disk cache **[cache memory 208 may comprise one or more nonvolatile disk drive (column 6, lines 31-35)]**.

As per claims 13, 16-17 and 20, claims 13, 16-17 and 20 encompass the same scope of the invention as those of claims 1-4, and 8. Therefore, claims 13, 16-17 and 20 are rejected for the same reasons as stated above with respect to claims 1-4 and 8.

***Allowable Subject Matter***

4. Claims 5-7, 9-12, 14-15 and 18-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See attached PTO-892.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser G. Moazzami whose telephone number is (571) 272-4195. The examiner can normally be reached on 7:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Sparks can be reached on (571) 272-4201. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**NASSER MOAZZAMI**  
**PRIMARY EXAMINER**

10/28/2005